

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

GAIL CROCKETT,

Plaintiff,

UNITEDHEALTHCARE OF WISCONSIN, INC.,
And U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Case No.: 22-cv-430

Involuntary Plaintiffs,

v.

WALMART, INC.,

Defendant.

NOTICE OF REMOVAL

NOW COMES Defendant Walmart, Inc. (“Defendant”), by and through its attorneys, MWH Law Group LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby removes the above-captioned cause of action from the Milwaukee County Circuit Court to the United States District Court for the Eastern District of Wisconsin – Milwaukee Division.

In support thereof, Defendant states the following:

1. This action was originally filed by Plaintiff against Defendant on or about February 24, 2022, in Milwaukee County Circuit Court, entitled *Gail Crockett v. Walmart, Inc., et al.* Pursuant to 28 U.S.C. § 1446(a), copies of the Summons and Original Complaint against Defendant are attached as **Exhibit No. 1**.

2. Personal service of the Original Complaint was made upon the Defendant's Registered Agent on or about March 8, 2022. A copy of the Service of Process Transmittal is attached as **Exhibit No. 2**.

3. This case may be removed from the Milwaukee County Circuit Court to the United States District Court for the Eastern District of Wisconsin – Milwaukee Division, pursuant to 28 U.S.C. § 1332. The United States District Court has original jurisdiction over the litigation filed in state court based on diversity of the parties.

5. This is a civil action in which Plaintiff Gail Crockett claims she is entitled to damages resulting from an incident at the Walmart store located at 401 E. Capitol Drive, City of Milwaukee, County of Milwaukee, State of Wisconsin on or about December 26, 2020. Plaintiff is seeking damages for injury to her neck, back, right shoulder, forearm, elbow, wrist, hip, thigh, and knee; and is claiming that she is required, and continues to require, medical attention for the same, that she was responsible for the cost thereof, that she had and continues to have paid and suffering, that she may have sustained a permanent injury, and that her enjoyment of life has been restricted. (**Exhibit 1, ¶ 8**). The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs.

6. Defendant Walmart, Inc. is incorporated in Delaware, has its principal places of business in Bentonville, Arkansas, and is deemed to be a citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

7. Plaintiff is a citizen and resident of Milwaukee, Wisconsin.

8. Involuntary Plaintiffs UnitedHealthCare of Wisconsin, Inc. and U.S. Department of Health and Human Services are domestic corporations, duly organized and existing under the laws of the state of Wisconsin. UnitedHealthCare of Wisconsin, Inc. and U.S. Department of

Health and Human Services are named as an Involuntary Plaintiffs solely based upon their payments on behalf of Plaintiff Gail Crockett for medical, hospital, and/or disability expenses she incurred allegedly as a result of the accident which is the subject of Plaintiff's Complaint. As such, UnitedHealthCare of Wisconsin, Inc. and U.S. Department of Health and Human Services are nominal parties in this action as opposed to a real party in interest. A party is a nominal party if there is no reasonable basis for predicting that it will be held liable. *Vandervest v. Wisconsin Cent.*, 936 F. Supp. 601 (E.D. WI, 1996) (holding that State Farm and WEA, as insurers of the plaintiffs who were named as defendants solely to protect their respective subrogated interests do not fall within the purview of Wis. Stats. § 632.24 or § 803.04(2) and are not otherwise real parties in interest).

9. The time for filing this notice of removal has not run because thirty (30) days have not elapsed since March 8, 2022, the date on which Defendant was personally served with the Original Summons and Complaint.

10. Counsel that has appeared on behalf of Plaintiff in Milwaukee County Circuit Court is:

Emily D. Davey
SBN: 1037719
Phillips & Cymerman, S.C.
161 West Wisconsin Avenue, Suite 5000
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11. This Notice of Removal is being served upon the Plaintiff's counsel by the state court's electronic document management system ("EDMS") and it is being filed with the Clerk of Milwaukee County Circuit Court.

WHEREFORE, Defendant Walmart, Inc. gives notice that the above-captioned action now pending against it in Milwaukee County Circuit Court is being removed therefrom to the United States District Court for the Eastern District of Wisconsin – Milwaukee Division.

Dated this 7th day of April, 2022.

MWH LAW GROUP LLP
Attorneys for Defendant, Walmart, Inc.

By: /s/ Electronically signed by Carlos R. Pastrana
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